

**PT 01-40**

**Tax Type: Property Tax**

**Issue: Charitable Ownership/Use**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
CHICAGO, ILLINOIS**

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**JOSEPH F. GLIDDEN  
HOMESTEAD  
& HISTORICAL CENTER,  
APPLICANT**

**v.**

**ILLINOIS DEPARTMENT  
OF REVENUE**

**No. 00-PT-0055  
(99-19-66)  
P.I.N: 08-22-151-041**

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**RECOMMENDATION FOR DISPOSITION  
PURSUANT TO APPLICANT'S MOTION FOR SUMMARY JUDGMENT**

**APPEARANCES:** Ms. Colleen Cebula of Cebula & Groak on behalf of the Joseph F. Glidden Homestead and Historical Society (hereinafter the "applicant").

**SYNOPSIS:** This matter arises pursuant to applicant's motion for summary judgment. Applicant filed this motion after the Illinois Department Of Revenue (hereinafter the "Department") issued a determination in this matter on April 21, 2000. Said determination found, in relevant part, that the barn, mill house and related sites<sup>1</sup> situated on real estate identified by DeKalb County Parcel Index Number 08-22-151-041 were not in exempt use, and therefore, did not qualify for exemption from 1999 real estate taxes under Section 15-65(a) of the Property Tax Code, 35 ILCS 200/1-1 *et seq.* (hereinafter the "Code"). At issue herein is whether the portions in dispute were

"exclusively used for charitable or beneficent purposes ...," within the meaning of Section 15-65, during the 1999 assessment year. The underlying controversy arises as follows:

Applicant filed an Application for Property Tax Exemption with the DeKalb County Board of Review (hereinafter the "Board") on November 10, 1999. Said Application sought to exempt the entire subject property from 1999 real estate taxes under Section 15-65.

The Board reviewed the application and recommended to the Department that the entire subject property be exempt. The Department, however, partially rejected this recommendation by issuing a determination which found, in relevant part, that the portions in dispute were not in exempt use.

Applicant filed a timely appeal to the Department's determination and later filed this motion for summary judgment. Following a careful review of that motion and its supporting documentation, I recommend that: (1) applicant's motion be granted; and, (2) the Department's initial determination in this matter be modified to reflect that the entire subject property, inclusive of the portions in dispute, be exempt from 1999 real estate taxes under Section 15-65.

**FINDINGS OF FACT:**

1. The Department's jurisdiction over this matter, and its position therein, are established by its initial determination in this matter, issued by the Office of Local Government Services on April 21, 2000.

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1. The barn, mill house and related sites shall hereinafter be referred to as the "portions in dispute;" the real estate on which those portions are situated shall hereinafter be referred to as the "subject property."

2. The Department's position in this matter is, for present purposes, that the portions in dispute are not in exempt use.
3. The Application for Property Tax Exemption, received by the Department on January 10, 2000, indicates that the subject property is: (a) located at 921 W. Lincoln Highway, DeKalb, IL; and, (b) improved with a historical center that includes the a main house, a barn and a mill house.
4. Only the barn and mill house are at issue herein because the main house is already exempt under terms of the Department's determination.
5. A quit claim deed contained within applicant's original submission to the Department establishes that, applicant, an Illinois Not For Profit Corporation, obtained ownership of the subject property on December 31, 1998.
6. The affidavit of the president of applicant's Board of Directors, Colleen Cebula, which applicant submitted in support of its motion for summary judgment, indicates that: (a) the entire subject property is listed on the National Register of Historic Places; (b) the portions in dispute are part and parcel of the historic preservation site situated on the subject property; (c) applicant offered public tours of the entire historic preservation site throughout 1999; (d) all of the portions in dispute were included as sites along these tours; and, (e) applicant restricted access to the interior portions of the barn and mill house during tours because of safety concerns attributable to the advanced age of these structures.

**CONCLUSIONS OF LAW:**

Summary judgment is appropriate where there are no genuine issues of material fact and the moving party is entitled to judgment as a matter of law. 735 ILCS 5/2-

1005(c). There are no genuine issues of material fact in this case. Therefore, the issue for decision herein necessarily becomes one of law. Evangelical Alliance Mission v. Department of Revenue, 164 Ill. App.3d 431, 439 (2<sup>nd</sup> Dist. 1987). That issue is, precisely stated, whether applicant's use of the portions in dispute can be linked to its use of other parts of the subject property that are already exempt under terms of the Department's initial determination herein. For the following reasons, I conclude that applicant's use of said portions can be so linked.

Article IX, Section 6 of the Illinois Constitution of 1970 provides as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

Pursuant to Constitutional authority, the General Assembly enacted Section 15-65(a) of the Property Tax Code, wherein all property owned by "institutions of public charity" is exempted from real estate taxation, provided that such property is "actually and exclusively used for charitable purposes and not leased or otherwise used with a view to profit." 35 ILCS 200/15-65(a). The statutory requirements for this exemption are that: (1) the property be owned by an entity that qualifies as an "institution of public charity;" and, (2) the property be actually and exclusively used for charitable purposes." *Id*; Methodist Old People's Home v. Korzen, 39 Ill.2d 149, 156, 157 (1968). Only the latter requirement is at issue herein, as the instant partial denial was predicated solely on lack of exempt use.

The affidavit applicant submitted in support of its motion proves that the portions in dispute were integral parts of a larger historical preservation site that applicant actively maintained throughout 1999. Safety concerns did necessitate that applicant restrict public

access to the interiors of the buildings situated on the portions in dispute. Nevertheless, it is clear that applicant was using such buildings and their adjoining sites in a manner consistent with the subject property's overall historic preservation purposes to the extent that safety allowed. Therefore, the Department's determination in this matter, which appears to have been based on an initial lack of information that applicant cured via the documentation it submitted in support of its motion for summary judgment, should be modified to reflect that the entire subject property be exempt from 1999 real estate taxes under Section 15-65(a) of the Property Tax Code.

WHEREFORE, for all the above-stated reasons, it is hereby recommended that the entirety of real estate identified by DeKalb County Parcel Index Number 08-22-151-041 be exempt from 1999 real under Section 15-65 of the Property Tax Code, 35 **ILCS** 200/1-1, *et seq.*

July 30, 2001  
Date

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Alan I. Marcus  
Administrative Law Judge